

**BUTTE-SILVER BOW LOCAL GOVERNMENT
STUDY COMMISSION**

**Minutes of the Meeting
February 9, 2006
Butte-Silver Bow Courthouse, First Floor Conference Room**

Meeting Date: February 9, 2006

Time: 5:30 p.m.

Place: Butte-Silver Bow Courthouse, First Floor Conference Room

Call to Order: Chairman Bob Worley brought the meeting to order at 5:35 p.m. and called roll with the following results:

Members Present: Dave Palmer, Cindi Shaw, Meg Sharp, Northey Tretheway, Tony Bonney, Bob Worley, Shag Miller and Ron Rowling

Excused Absences: Ristene Hall, Wayne Harper and Ron Rowling

Approval of Minutes: Bob Worley asked for a motion for approval of February 2, 2006 minutes. Dave Palmer moved and Meg seconded to approve the minutes from February 2, 2006.

Comments from Ron Rowling: Ron Rowling was absent. Jennifer Rozinka confirmed reservation of the Council Chambers for March 9, 2006 at 6:30 p.m. The chambers are reserved from 5:30 p.m. to 9:30 p.m. She also provided everyone with a copy of the ordinance on Administrative Code. Bob Worley suggested everyone take it home and read it. They will review it at the next meeting. Bob Worley read from the top of the page, providing for the establishment of regulations setting forth policies in the following areas: procurement, central purchasing, supervision and discipline of personnel, safety, capital improvement and such other regulations as the council shall determine necessary and providing for an effective date. Be it ordained by the Council of Commissioners of the City and County of Butte-Silver Bow, Montana. Bob Worley believed the charter would override the ordinance within Section 10.06 (c). Bob Worley commented the Administrative Code establishes those policies discussed previously in those areas. Bob Worley stated that was established by ordinance and was not sure if it had to stay in the charter.

Meg Sharp stated they added Information Systems and Technology under Section 10.06 (c)(5) and then other regulations as (6).

Cindi Shaw referred to Section 7.07 and moved that they add as a separate department with a director in charge of confinement, enforcement and administration.

Bob Worley referred to Section 7.08, Superfund Coordinator. Dave Palmer thought that section should be worded differently and suggested the following language: establish an Advisory Board with a Superfund Coordinator.

Northey Tretheway asked if they want that person to be the coordinator of funds or the work?

Cindi Shaw replied they should coordinate everything.

Shag Miller commented if it is money coming to the community, it is the responsibility of the commissioners to oversee that money.

Shag Miller asked Northey if they only get the interest in?

Northey Tretheway replied they resolve the issues that are supposed to be funding a development trust that may not be related to Superfund. That money which would be \$16 to \$19 million, supposedly earning interest, could be used anywhere in Butte. Northey discussed the \$100 million dollars and stated the real present value of that is going to end up being around \$45 million. \$15 to \$20 million of that is just development. It could be spent on anything. The rest of the money is applied to long-term maintenance.

Cindi Shaw asked on the certificates that they develop for their final presentation, will they more specific in the certificate as to what they expect on the Superfund Coordinator's duties and the Animal System?

Bob Worley explained when they turn in the charter with the proposed changes; it has to be ballot ready. In other words whatever words are in the charter will be on the ballot.

Cindi Shaw asked if the public votes on it, is the Council of Commissioners going to have a clear understanding?

Bob Worley replied that they would write a second report to the commissioners stating what they expect to be done.

Dave Palmer thought they should spell out the duties. If they don't then four to five years from now, they could change the ordinance easily.

Northey Tretheway commented if they are going to establish a requirement of the board, is to be the fiscally responsive party for managing the funds and work of Superfund.

Northey Tretheway suggested the following language be added: responsible for the management of Superfund's trust accounts.

Bob McCarthy arrived.

Bob Worley asked Bob McCarthy about Superfund. Bob McCarthy explained that they are into 20 years of discussion and believes the original complaint was filed around 1984. At that time there were people from both Denver and Seattle. Bob McCarthy believed Butte's Superfund was officially named around 1987-88. First they talked about five years. Every time they have a deadline, they don't meet it within that five-year time frame. Bob McCarthy stated it is hard to get a feel on what is really involved because it changes all the time. Changes in the national administration at the top have an affect. When Clinton came into office in 1993, things changed. When Bush came in, things changed. Bob McCarthy is not sure what is going to happen next. If there is a change in the political party that is in power, we can probably expect a change again. Bob stated they expect to see more definiteness on the priority soils this year. Bob McCarthy stated, he thinks as soon as this summer because he thinks there is going to be an agreement among all the parties such as government, state, feds, ARCO and so forth. Bob McCarthy stated a lot of this is going to run up to 100 years.

Northey Tretheway commented they are discussing on putting some language in the charter that is not the simplified version, that establishes a Superfund Advisory Board, made up of citizens that would oversee the trusts, and financial instruments that will help fund that over a hundred years. It would also keep a centralized focus on money coming in, money going out and where it is being spent.

Bob McCarthy replied that he did not think that was a bad idea. He believes the agreements themselves are going to be somewhat self-enforcing in that there are going to be trustees

established. ARCO and EPA are going to be careful and are not going to allow City-County to decide how all this happens.

Northey Tretheway asked about the portion of funds and the agreement that covers a development trust that could be used for whatever BSB wants.

Bob McCarthy replied that is still speculative. If the parrot tailings are ordered removed then all bets are off and the development trust may disappear. A large part of the development trust is contingent on parrot tailings not being ordered removed. Bob McCarthy explained that is not simple because what might happen is the feds may leave the parrot tailings and the state may use some of their NRD money and will move the parrot tailings with state money. Bob McCarthy felt the odds of that happening were better than 50-50. Bob McCarthy explained the problem is this isn't like anybody ever thought. You could take the Montana Codes and read them back and forth and sideways. There is nothing in there that looks anything like this stuff. The reason is it is a federal proceeding and the other reason is it is so fluid; it changes so much. Finally it not only changes often, the people that are in charge of it...BSB is on the third set of administrators. The people who started it are probably retired.

Bob Worley asked Bob McCarthy if they were trying to write some teeth into that ordinance as to what the Superfund Advisory Board and Coordinator could be responsible for, what would he suggest the proper language be?

Bob McCarthy suggested they keep it broad, because they don't know exactly what it is going to look like and they don't want to write in times or specific provisions that in five or ten years will not make sense anymore.

Northey Tretheway replied that they don't want to make it so broad that somebody says the Advisory Board will only look after fixing one piece of Silver Bow Creek or something like that.

Bob McCarthy thought having a broad designation of authority for the Superfund area is a good idea. Bob McCarthy explained the reason he thinks it is a good idea is because the Council of Commissioners has not shown much stomach to try and fund this. Bob McCarthy explained that it has been done cheap and it has been done on the most part without hiring other people. Last year, they hired this lawyer from San Francisco because they were in over their head and ARCO was trying to take advantage of them. The only thing they could do...they sent a couple people to training seminars and realized really quick that they were in over their head. BSB has never had people who were trained in this field nor did they have people who had time to invest in it.

Bob McCarthy commented that they have found out things they said to be true and other things to be untrue. For the most part, it has been done with BSB employees. In the beginning, it was discussed they hire Superfund employees but BSB did not do that, there was no money to pay that. That have got a lot out of ARCO, they have the Land Records Systems, remediation on the hill. They have learned a lot and trained people. Bob McCarthy commented the most trained employees have been interns from Montana Tech working on their Master's Degree.

Northey Tretheway suggested that kind of language, the Coordinator would be responsible for aspects of maintenance, restoration and monitoring of Superfund activities and financing of those activities.

Bob McCarthy suggested they give the council authority to do a couple things without mandating, for example, authority to appoint committees and things like that. Bob McCarthy explained they don't know what things are going to look like and in ten years it might be so different, you don't know what it is going to look like. You want to be able to do something that is meaningful and

not get trapped into something...the original charter was so specific within a couple of years, the legislature changed the terms here and there. BSB had provisions that were obsolete from this, and became a hindrance. Broad grants to create committees and things like that would be a good thing.

Bob Worley read the language they have drafted, the Council of Commissioners shall establish by ordinance an Advisory Board and Superfund Coordinator responsible for...Northey Tretheway's drafted language read, responsible for maintenance, restoration and work in fulfilling the requirements of the Superfund activities...

Bob McCarthy replied ultimately it is going to be out of the Consent Decree, which is an order that will be approved by the court. Record of decision is an interim thing from the bureaucrats. The federal courts will approve the Consent Decree.

Northey Tretheway asked, until that is done, there wouldn't be any funding?

Bob Worley reviewed the suggested language: maintenance, restoration, coordination and funds as a result of the Consent Decree.

Bob Worley asked if everyone was in agreement with the charter and the proposed language changes.

Cindi Shaw referred to Article XI, transition provisions they need to add Animal Services, Superfund...

Bob Worley replied that they do that in Article XI and a transition period from the existing charter to the drafted charter.

Bob Worley discussed Article IX, nominations and elections. They left Section 9.01 and eliminated Sections 9.02 (this Section duplicated Section 3.02), 9.03 and 9.04.

Dave Palmer stated in Section 7.09, they had shall establish by ordinance a Community Enrichment Coordinator.

Bob Worley replied that it does not say they are a hired employee. Bob Worley asked if they are safe to assume they will hire a Community Enrichment Coordinator?

Dave Palmer suggested they add full-time.

Bob Worley mentioned to Bob McCarthy about their previous discussion on Section 9.02, 9.03 and 9.04 and those being eliminated from the charter. Bob McCarthy stated they only need Section 9.01.

Bob Worley commented they are through reviewing the charter and asked if anyone had any questions.

Meg Sharp asked about Section 10.07 and if there was a need for that in the charter.

Bob Worley replied that they made some changes in Section 10.03 regarding the language "severability".

Bob Worley referred to 10.07. Bob McCarthy stated whether they have it or not, it is the law.

Bob Worley mentioned that he spoke with Don Robinson's Secretary and Don was not able to complete the employment policy on Section 5.03 and 5.04. He should have it done by the next meeting.

Section 10.07 was taken out.

Bob Worley referred to the copy from Don Robinson regarding employment of non-elected department heads. Bob Worley read from the copy, which stated it will not be allowed within the state, "serving at the pleasure of" the Chief Executive or anyone else. The only way for a discharge to occur in the State of Montana would to be "just cause".

Cindi Shaw replied if the employee is under contract for a specific duration it is exempt. If the contract is silent, it is not exempt.

Bob Worley stated if they leave the charter the way it is right now, and remove the language "serving at the pleasure of" but retaining "just cause" the charter could stay that way or the other option would be to hire certain department heads on a contract basis.

Bob McCarthy had told Bob Worley that they not put Public Works, Budget and Finance heads under this type of thing because they coordinate and follow through one term to the next.

Bob McCarthy stated they don't do that just there but everywhere. They do it in Billings, Bozeman, Great Falls, Missoula, Kalispell and Helena. The whole point is they have continuity and not have interruption.

Northey Tretheway asked how the other cities deal with this issue.

Bob McCarthy replied they all have managers. The managers are on contract for 2-3 years. Depending on the size, they might have Assistant Managers. Bob McCarthy believed Billings had four. He believed Billings a manager, deputy and two assistants. Great Falls has two and Bozeman has two or three managers. The governing body, the commission hires them. They are hired and remain hired under good performance. The smaller the city, the more likely they are to stay. The larger the city, the more likely they are to move around to a larger department. The department heads are meant to have continuity and this is how it is all across the country.

The officers that are typically elected in the United States are Sheriffs and Prosecutors. Other than that, you have a fairly small governing body.

Northey Tretheway asked if you have done your job in outlining the requirements of someone working in the position and you have done a good job in outlining what you expect from an employee and the employee fails to meet those expectations, is that qualifying after trying to correct that for a period of time?

Bob McCarthy replied the whole area of labor law in the United States but as a general rule, the higher up you go, the less protection you have, the greater is expected out of your performance and the easier it is for you to be terminated. It is harder to terminate someone at a low level job once they pass the probationary period and the answer to Northey's question was yes.

Northey Tretheway asked what are the requirements for "just cause"?

Bob McCarthy stated typically it works like this, generally throughout the U.S. and for the most part this comes out of the federal system. It is called progressive discipline. People typically

think that means only when you have someone who is incorrigible and that is not true. It also can be involved with a person whose performance is not good.

Northey Tretheway replied that has been his point all along. If you have give a person repeated opportunities to correct his/her performance and this person is unable to do that, then you have the legitimacy to let them go without a lawsuit being filed.

Bob McCarthy added that supposes that you are going to have an effective evaluation system. Bob McCarthy stated BSB has the most ineffective evaluation system; it is a non-existence evaluation system. There is not one. This is something a real Human Relations Department would do. In order to rate people, you have to have a scheme system and then you have to train the people who are going to do it.

Northey Tretheway stated there are two issues, one that Don Robinson addressed which is a band-aid issue covering the problem. The other issue is what BSB experienced recently where someone for whatever reason does not want to view performance, they just want to come in with their own people.

Bob McCarthy replied that is absolutely right. He thinks what happened as a result of the decisions of the Supreme Court over the last ten or fifteen years, is they have nearly removed political reasons for hiring people other than at the very top, in these departments at the state level. Other than that, political hiring is gone whether people like it or not.

Dave Palmer referred to Section 7.06, they changed the language to read, the Council of Commissioners shall maintain by ordinance a city-county Human Resource System, which shall implement an employee evaluation system. The policies on procurement, use of vehicles, all the day-to-day operations that may change from time to time should go under Information System and Technology.

Bob McCarthy stated you don't want to burden the Council of Commissioners since they should be deciding policy. The Administrative Code is something that is not quite as formal and does not have as rigid procedural attachments that the Municipal Code has.

Bob McCarthy commented how they need to change or reinforce the personnel thing coming out of Human Resources. That is where training should come from. People should have real training and take care of things they are left in charge of. People who run a small business could figure this out real quick. The problem is they are talking about converting an operation that thirty years was so inefficient, that it did not only work and nobody cared.

Northey Tretheway mentioned to Bob McCarthy that they have been discussing what issues the council should really be working on. The council should be focusing on policy and the bigger picture instead of signing the invoices and so forth.

Northey Tretheway and Dave Palmer discussed the Administrative Code and stated to Bob McCarthy that the charter states there shall be central purchasing and procurement.

Bob McCarthy asked if they have spent time talking about central purchasing. Bob Worley replied as they went through the charter, they came across it.

Dave Palmer commented that it was suggested they use the same type of computer systems but when other departments get their budget, they buy whatever they want. Bob McCarthy replied all he was thinking were pencils, paper and so forth. Dave Palmer stated there is nothing that ties together the Information Technology System.

Northey Tretheway suggested they put in the charter; the Council of Commissioners should focus on the policy setting and directives for BSB.

Bob McCarthy suggested the language read, the Council of Commissioners shall mandate that there be central purchasing.

Dave Palmer replied that is why he thinks they should spell out in the charter.

Meg Sharp asked if a citizen who is aware of that provision in the charter and realizes it is being ignored, could the citizens bring a suit against the council?

Bob McCarthy replied that it probably isn't strong enough.

Bob McCarthy stated what that did is give them authority to do that stuff. Bob McCarthy thought they needed to toughen it up.

There are lots of areas where you could have a citizen lawsuit. The main one is if they don't collect the taxes properly.

Cindi Shaw asked where is the enforcement? Does that come from the Chief Executive?

Bob McCarthy replied if there is strong language in the charter so you could use the charter to enforce it.

Bob McCarthy stated the language "shall" is a mandatory word.

Bob McCarthy stated the Chief Executive is supposed to enforce policies that are adopted by the Council of Commissioners.

Cindi Shaw asked who enforces that?

Dave Palmer replied the charter does.

Northey Tretheway believed you could sue them.

Bob McCarthy commented the Administrative Code is blank.

Dave Palmer replied that is why he asked for a copy of the ordinance. He figured it would have more substance.

Bob McCarthy discussed how other cities have a Purchasing Department. Bob stated the reason he wants to have central purchasing is from the danger, at any level of government, the temptation where those people can spend money. It would avoid ethic violation from occurring.

Two reasons for central purchasing is so you could get good products at a good price and second so you are not tempting people.

Northey Tretheway replied that central purchasing is not just in government, it is across the board in business and there is a reason for it. Northey stated by not have it in BSB government is costing taxpayers money.

Bob Worley referred back to Human Resource System and asked Bob McCarthy if he had any suggestions.

Bob McCarthy thought they should add mandatory provisions.

Northey Tretheway referred to Section 10.06. He thought they should take it further than just policies and add in procedures in the following areas: 1) procurement and central purchasing, 2) supervision and discipline of personnel, 3) safety, 4) capital improvements, 5) information systems and technology and 6) such other regulations as the council shall deem necessary.

Bob McCarthy replied to Bob Worley that the one thing he has not discussed is having people do that.

End of Side One, Tape One

Bob McCarthy commented with the charter, there should be two things: an enabling document or structure and there should be the operational regulations, which come in the form of ordinances or regulations such as the Administrative Code.

Dave Palmer suggested the following language: the Council of Commissioners shall maintain by ordinance a Human Resource System and then add, which shall include an employee evaluation system. If the voters pass it, then it is the Study Commissions job to do the transition document. Dave asked Bob McCarthy how much teeth would the transition document need to have?

Bob McCarthy was not sure since he did not know what it was going to look like. They might have things in the form of ordinances. Bob McCarthy mentioned that voters could enact ordinances.

Bob McCarthy discussed the issues of a more simplified charter containing broader terms so it will stand the test of time. However, then you are left with the question, how do you get them to do what you want?

Northey Tretheway replied that he thinks if you spell out in the charter what is required without being overly specific, that is where the public gets involved. Northey mentioned how it is done in business, is there is usually a sponsor for each initiative that comes up. If you were to state in the charter, the Council of Commissioners shall establish a commission's sponsor for creating a central purchasing...somebody has to be responsible for enforcing it.

Bob McCarthy stated the Chief Executive is the one who is responsible to implement those things.

Northey Tretheway replied he thought what was missing was the individual accountability. The commissioners are not doing it. They could demand that the Chief Executive do it but they are not doing that.

Bob McCarthy thought there were a lot of things the commissioners did not understand because it is a part-time thing. The commissioners don't propose policies; they review them.

Northey Tretheway replied from everything he has read in the book from Ken Weaver, the Council of Commissioners are supposed to establish and review policies and procedures. Butte-Silver Bow's commissioners are reviewing invoices from week to week.

Bob McCarthy replied if you look at what the commission does in Great Falls or Bozeman, it does not look anything like this. It is like they are in central planning.

Northey Tretheway asked why are we not doing that? If they were required to have to do these things...they could push it off onto the Chief Executive.

Bob McCarthy replied there is no question that BSB could operate more efficiently.

Northey Tretheway replied you could hire additional staff but then it ends up costing more now than if it were done the right way to begin with. Do you need the additional staff if you realize the benefit financially by running things more efficiently? There are computers on people's desks that don't even know how to use them.

Bob McCarthy explained how the hiring and firing has not only changed but the whole concept of having people employed by the government. When employees have a grievance, they don't bring the grievance to the department within which they work, they bring it against the government. This has been proved true in the Law Enforcement Department. Every time someone brought a lawsuit, they did not sue the Law Enforcement Department, they sued the government. The government had to pay, not the Sheriff.

Bob McCarthy explained that people have to be hired according to specific standards and just because somebody knows somebody else that is no good anymore. You have to follow the recognized requirements.

Cindi Shaw looked under Article IV, Section 4.02, The Powers and Duties of The Chief Executive and in the charter under that section is states, "to enforce ordinances, resolutions and laws".

Bob Worley reviewed Section 7.06 on Personnel Systems. They had deleted a lot of the language in that section. Bob Worley asked if there something they wanted to put back into that. Northey Tretheway suggested implementing an evaluation system and training. Bob Worley asked if they wanted to leave it to the Council of Commissioners to do those things by ordinance?

Northey Tretheway read over some of the language that had been deleted, such as training and performance evaluations.

Bob McCarthy explained the reason it was so long was to try and force them to do it. That is the reason he wrote all that. Bob McCarthy suggested they make it stronger.

Dave Palmer suggested the following language: the Council of Commissioners shall maintain by ordinance the city-county Human Resource System. The system will implement an employee evaluation system and an employee training system. They will then need to be the ones to watch and make sure it gets done.

Northey Tretheway asked, once a council enacts an ordinance that changes the code to require what was in the charter, why is there no follow-up?

Bob McCarthy thought the department, itself, would take that on. The Finance and Budget Department did take it on and it worked well.

Northey Tretheway asked if the Chief Executive is accountable for putting it in, the council has to ensure it gets done.

Bob Worley asked what they wanted to put in that section?

Bob McCarthy warned they don't want to be too specific because if they forget to put something in, the presumption is they meant to leave it out.

Northey Tretheway commented what they could put in there is the council establish the ordinance or code and will follow-up with reporting to ensure that it is done. They have to follow-up and report that it gets done.

Northey Tretheway stated they could specific without being too specific; they need it to state that they have to report and follow-up in a timely manner, the completion of these systems and report on the status and success of the implementation of these systems. That would be forcing them to follow-up. They will have to report back to the public.

Bob McCarthy stated the fault is the system. The fault is the structure; they don't have a real system.

Dave Palmer made a motion to put the following language in Section 7.06, the Council of Commissioners shall maintain by ordinance a Human Resource System. This system shall contain at a minimum, an employee evaluation system and an employee training system.

Bob McCarthy commented about the word "system" being in there twice. He suggested the first use of "system" be replaced with "department".

Northey Tretheway further suggested they add: and there will be quarterly reporting on the success or the issues pertaining to Human Resources.

Dave Palmer clarified the language to read, the Human Resource Director will report on a quarterly basis the success of the implementation and the issues pertaining to Human Resources.

The title of that section was changed to Human Resource Department.

Dave read the proposed language for that section as follows: The Council of Commissioners shall maintain by ordinance a city-county Human Resource Department. At a minimum, this department will maintain an employee evaluation and job training system. The Human Resource Director will report quarterly to the Council of Commissioners and to the public the success

Shag Miller asked who would do the evaluation? Dave replied that would be up to the Human Resource Director.

Shag Miller asked if that should be the role within the department and not necessarily the Human Resource Department.

Dave Palmer explained that the Human Resource Director would come up with a system and it will be a standardized employee evaluation form used countywide for every employee in the county.

There was discussion on the evaluation being done annually versus quarterly. Northey Tretheway commented typically on annual evaluations, the only time employees find out they are doing something wrong, is when the evaluation comes out. It is better to do it more frequently because most supervisors would not inform the employee that they do not like what he/she is doing.

Cindi Shaw asked if they were discussing the reporting of the Human Resource Director reporting to the council on the success of the system.

Dave Palmer stated that is what he was talking about and it is not his intent to create the evaluation system that is going to be used. That will be left to Tim Clark, the council and the Chief Executive.

It was agreed that the Human Resource Department report quarterly.

Tony Bonney commented that being a member of the Laborer's Union, they have negotiated contracts and there is a certain procedure that has to be followed. The council could come up with any ordinance they want but the negotiated Labor Agreement takes precedence.

Northey Tretheway and Shag Miller agreed that it would be better to do evaluations more frequently. Northey stated when you do run into a problem with an employee, you could have a coaching session documented. If after five times or so the employee continues to have the same problem, you could take an aggressive step and let that person go. There needs to be a paper trail under that system.

Dave Palmer referred back to where he left off with his motion and continued, **on meeting these requirements.**

Shag Miller asked that the Human Resource Director would not be the one evaluating or rating the employees within each department. Dave clarified that the Human Resource Director would be setting up the policies.

Bob Worley asked Bob McCarthy if there is something within state law that states when they change an ordinance, they could not use more than 25 words on the ballot.

Bob McCarthy replied that was correct. The ballot question is the yes or no. Bob McCarthy commented the other part, which he thought was called statement of implication could not exceed 100 words.

Northey Tretheway asked if you change one word on the charter it has to be on the ballot?

Bob McCarthy replied the statement of implication, is the 100 words.

Bob Worley read and addressed the motion on Section 7.06. Northey Tretheway seconded. All were in favor aside from Shag Miller, who opposed. Motion carried.

Tony Bonney commented that there is flexibility given on the number of evaluations that need to be done within a certain time.

Cindi Shaw referred to Section 7.07 and suggested that it be called Animal Services Department and have the same type of verbiage as in 7.06 stating that there needs to be follow-up and accountability. The Animal Services Department has to report...Cindi Shaw proposed the following language: The Council of Commissioners shall establish by ordinance an Animal Services Department as a separate department with a director in charge of confinement, enforcement and administration. She thinks they should also add a clause that mentions the accountability almost identical to Section 7.06.

Bob Worley asked if she could wait on that until they get into the issue with Don Robinson and hiring by way of contract?

Bob Worley was not sure if they could determine specific departments that they want to contract with.

Bob McCarthy asked how they are going to get anybody that is worth anything if they are hiring only by contract. He thought their chances of getting good, qualified people would be poor.

Northey Tretheway replied he thought the same thing but asked if that was the same thing that goes on with teachers?

Bob McCarthy replied sort of but after the third year, teachers have tenure and could then only be terminated for cause.

Bob McCarthy thought that might be something they would want to consider. Where they have a contract for only a certain period of time. They need to have a method where people have some security to get good, quality people.

Bob McCarthy commented most probation periods are six months and it is hard to determine if people are any good within that time frame.

Bob McCarthy stated if you have a real performance rating system, you could do it. The higher up you are, the greater the responsibilities attached and rigid standards.

Dave Palmer thought if there was a strong Human Resource Department that did create an evaluations and the Chief Executive evaluated the department heads. If the department heads were not meeting the performance requirements, then you have just cause to let him/her go.

Northey Tretheway commented if they put something like that in the charter covering contracts or so forth, then you tie some of the hands, providing they do get a performance rating system, which is not guaranteed.

Bob McCarthy explained the legislature enacts provisions every session that have automatic expiration dates. He did not know if they could have a provision in the charter that would be real rigid for a fixed period of time but would not be like that forever so when the system is set up...Northey replied so it would cause the system to be set up.

Shag Miller replied the feedback he has got and from the public hearing is that the Chief Executive when he runs on a campaign and states that he is going to do this and that then he should have a right to implement his programs. He implements the programs through department heads and supervisory personnel.

Bob McCarthy replied that he knows that is what people think and unfortunately that is not the law in the State of Montana.

Shag Miller continued the contract system, it is always debatable whether you can or cannot get good people on a contract. Shag Miller thought a lot of people would prefer a contract with an Evergreen Clause.

Dave Palmer commented when the Chief Executive campaigns that he is going to do something and when he gets in there he is stuck with existing department heads. His first job is to sit down with those department heads and set goals. If his department heads do not want to work towards those goals then he needs to start documenting and reprimanding.

Shag Miller asked how much time does the Chief Executive have to do that with 11 department heads?

Dave Palmer stated he could do it on his first day of office.

Bob Worley stated they have two choices, they could do something with “just cause” and leave the charter as is or hire by contract.

Bob Worley did not see where they could be selective in hiring by contract.

Northey Tretheway commented the only ones it would apply to would be the new ones.

Bob Worley stated that he understands that but sometime down the road they are going to have a new Public Works Director and new Budget and Finance Director, etc. Do they put those kinds of people under contract or do they do it under “just cause”?

Northey Tretheway thought under an idea situation you would have a “just cause” type of arrangement. If you start putting people under contract, especially in Butte, you are not going to get good people to take on that job.

Tony Bonney and Shag Miller disagreed.

Cindi Shaw referred to that Animal Services Department and her discussion with Paul Babb. They talked about taking that out of Public Works, it no longer being under a Labor or Teamster Union and it being done by contract.

Bob Worley asked if they could write an ordinance that would allow the Council of Commissioners to determine which department heads and the Chief Executive to determine whether they want to carry somebody under contract?

Northey Tretheway stated they could do that now. His problem is if they hard wire into the charter and you don’t get someone applying for that job, what are you going to do?

Tony Bonney did not think there would be a likelihood of someone not applying for a job.

Bob McCarthy replied that you could. He continued on saying even if you get a good person trained in either Public Works or Finance and Budget, there is not a city in Montana that does that.

Bob McCarthy explained when they are talking about hiring people in positions where they want to bring them that is different. If you want people that you expect to get long-term service from...and this government is pretty small and the people in those positions have been workers. It was people who did not know what they were doing that caused all the problems.

Northey Tretheway went back to his question.

Bob McCarthy stated the people are getting paid and if you don’t have security, you will not get anybody.

Bob McCarthy suggested they have someone under contract for a certain period of time until they can determine if they are a good worker or not. He thinks it has real validity and would be valuable to do a contract under those terms.

Northey Tretheway asked wouldn’t it make more sense to get the “for cause” established?

Bob Worley asked if they want to leave that up to the Council of Commissioners?

Cindi Shaw suggested they turn it in as part of their report to the council.

Shag Miller thought the Chief Executive should have the right to appoint staff members if there are openings under this system. Shag Miller suggested he could appoint with an Evergreen Clause.

There was continued discussion on hiring by contract versus “just cause”.

Bob Worley suggested they discuss it again next week.

Bob Worley mentioned they could cut costs and Jennifer Rozinka would make copies of the draft of the charter. They would only need to purchase the paper.

End of tape 1, Side 2

Tape 2, Side 1

Bob Worley discussed with everyone the times they want to schedule a party line and focus show. Bob Worley discussed that the schedule of the focus show was a problem. There was an opening for this weekend. The next time available would be to record on the 14th and it would play on the 19th of February. Bob Worley was hoping they could do it to where they would tape and play either the last week in February or the first week in March but those times are already spoken for. Bob Worley confirmed that Northey Tretheway, Shag Miller and himself were going to do the focus show. They would need to do it next Tuesday.

Northey Tretheway referred to the timeline and discussed how they are already behind.

Bob Worley asked when they are talking about the tentative reports, he is assuming Jennifer would be printing. Bob Worley asked if he wanted a separate page that takes all the changes out of the charter so they don't need to read the entire charter?

Northey Tretheway thought it was supposed to be on everything they were changing. Northey thought they were going to be stacked side by side. They would have the original wording and then the proposed changes. Northey thought they would also need to explain the changes. Northey explained how all of that would be leading to a final report.

Northey Tretheway again referred to the timeline.

Northey Tretheway asked Bob McCarthy if the previous Study Commission had many changes in the charter after their public hearing. Bob McCarthy replied no but explained the changes they are proposing are more controversial than that of the previous Study Commission.

Northey Tretheway thought it was important for the public to have the information available on the issues they are proposing prior to the public hearing.

Northey Tretheway was concerned that they might be rushing through things without giving thorough thought of things just to get it done by the June primary.

Bob McCarthy explained the 1986 Study Commission had major changes/revisions and worked real hard; it was too much. They ended up offering all or nothing. In 1996, there was recognition that there were things in the charter that were either incorrect, incomplete or just wrong. That

Study Commission decided it was better to fix the charter than to try for major changes. It was for the most part, non-controversial.

Bob Worley believed the public hearing would be their turning point and they could see what feedback they get from it. They can then make their decision on whether they think they want to shoot for June or November.

Northey Tretheway stated if they are doing the June primary, this week is the critical week.

Northey Tretheway discussed all the work they would need to do within the rigid time frame they have.

Bob Worley did not believe they had enough time to do the June primary.

Northey Tretheway agreed.

Meg Sharp believed they could if they met later or attended more than once a week.

Northey Tretheway commented that would also include someone taking on the task of putting everything together. He stated they could probably do it but they would need someone to put in the extra time to work late and who is willing to do that?

Shag Miller motioned they continue to have weekly meetings, to double check things, have the public hearing, test the waters, proceed along and make sure they were ready for the general election. Shag Miller moved they shoot for the general election in November and not try to make the March 23, 2006 deadline. Dave Palmer seconded.

Bob Worley asked if there were any questions on the motion?

Meg Sharp asked Shag if he was referring to weekly meetings during the summer? Bob Worley thought they would be far enough by then that it should not be an issue.

Meg Sharp asked if they were still going to have the public hearing on March 9th? Bob Worley replied yes.

All were in favor and the motion carried unanimously.

Date of Next Meeting: February 16, 2006

Adjournment: Toney Bonney moved the meeting adjourn and Cindi Shaw seconded. Meeting adjourned around 8:20 p.m.